THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5589 of 2006

Dated: 05.09.2006

Between:

V.N. Rao, Driver, E. 40928, S/o Buchi Venkaiah, R/o Pandillapalli Post, Chintakanani Mandal, Khammam District.

..... PETITIONER

AND

The Presiding Officer, Industrial Tribunal-cum-Labour Court, Warangal, Warangal District and others.

.....RESPONDENTS

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Writ Petition No. 5589 of 2006

Order:

The petitioner, who is working as a casual Driver on daily wages in the respondents-Corporation, was charge sheeted on 31.01.1988 alleging that on 01.11.1987 he drove the bus in a rash and negligent manner and dashed against five persons proceeding on three cycles at K.M. Stone No.87/4-87/6 near Annavaram village, resulting in death of two persons and grievous injuries to three persons. After conducting a regular enquiry and considering the explanation submitted by the petitioner, respondent No.4, namely the Depot Manager, vide proceedings dated 25.06.1988, removed the petitioner from service. Aggrieved by the said orders, the petitioner raised an industrial dispute in I.D. No. 11 of 1990, and the Labour Court, by award dated 26.03.1992, confirmed the removal order passed by respondent No.4-Depot Manager and dismissed the I.D. The petitioner has not challenged the said award passed by the Labour Court, and he kept quiet.

Now the petitioner filed the present writ petition on the ground that subsequent to passing of removal order by the 4th respondent, which was upheld by the Labour Court, as he was acquitted from the criminal case for the same charges, he filed an appeal before the Deputy Chief Traffic Manager, which was rejected by order dated 30.10.1999. Questioning the same, he filed review petition before the 2nd respondent, and the same was also rejected, by order dated 09.10.2000.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

The main contention of the learned counsel for the petitioner is that subsequent to the removal order passed by the 4th respondent, which was upheld by the Labour Court, the petitioner was acquitted by the criminal court for the same charges, and the appellate and review authorities, without appreciating the same, rejected the appeal and review petition filed by the petitioner. He thus, prays to allow the writ petition and set aside the removal order passed by the 4th respondent-Depot Manager, which was upheld by the Labour Court, as well as the appellate and review authorities.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned orders are to be examined.

The petitioner did not allege any procedural irregularity in the conduct of the enquiry. In the departmental enquiry, the Enquiry Officer, on consideration of the entire material and evidence of the eye witnesses on record, held that the charges leveled against the petitioner are proved. The disciplinary authority, considering the nature of the proved charges, removed the petitioner from service. The Labour Court, on re-appreciation of the entire material and evidence on record, having held that the petitioner is responsible for the accident, and he tried to suppress the factum of accident by failing to report the same either to the depot authorities or to the police, confirmed the removal order passed by the 4th respondent and dismissed the I.D. Though the Labour Court passed the award in the year 1992, the petitioner has not challenged the

said award immediately, and he kept quiet. Now the contention of the petitioner is that as against the same charges, the Criminal Court acquitted him on the ground that the charges leveled against him are not proved, the removal order passed by the 4th respondent, which was upheld by the Labour Court as well as the appellate and review authorities has to be set aside. I am unable to accept the said contention for the reason that mere acquittal of the petitioner by the Criminal Court does not automatically give him the right to claim setting aside the punishment awarded by the disciplinary authority. Before the Enquiry Officer the evidence led by the management was different from that led by the prosecution in the criminal case and the approach and the objectives of the criminal proceedings and the disciplinary proceedings are altogether distinct and different. Therefore, it was open to the Disciplinary Authority to have come to an independent conclusion dehors the finding of the Criminal Court. Apart from that, the appellate and review authorities, after taking into consideration of the whole issue in terms of Circular No. 48/95, and having observed the seriousness of the present case and the inhuman attitude of the petitioner towards the injured, held the charges were proved beyond any reasonable doubt, and accordingly, rejected the appeal and review petition filed by the petitioner. Further, though the rejection order of the review petition was passed on 09.10.2000, the petitioner filed the present writ petition on 20.03.2006 i.e., after lapse of about five years five months, and he failed to explain any sufficient reasons for the inordinate delay caused in approaching this Court.

The order passed by the Disciplinary authority, which was confirmed by the Labour Court as well as the appellate and review authorities, is a discretionary one and such an order cannot be interfered with by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, and more so when the petitioner failed to point out any illegality, infirmity or perversity committed by the Disciplinary Authority in passing the removal order.

For the reasons, there is no merit in the writ petition and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 05.09.2006
Nsr/ISL